of the tax is usually determined by the phraseology of the statute. The test often applied is whether the tax is on the capital stock by that name without regard to its value, in which case it is a franchise or excise tax, or whether it is on the stock at its assessed value, in which case it is a property tax. *State* v. *Stonewall Ins. Co.,* 89 Ala. 335; *Phoenix Carpet Co.* v. *State,* 118 Ala. 143; *Society for Savings* v. *Coite,* 6 Wall. 594. But this test cannot always be applied and the courts do not agree that a tax such as that provided for in the principal case is a franchise or excise tax, though the weight of authority seems to be that it is. *Southern Gum Co.* v. *Laylin,* 66 Ohio St. 578, 64 N. E. 564; *Singer Mfg. Co.* v. *Heppenheimer,* 54 N. J. L. 439; *Jones* v. *Savings Bank,* 66 Maine 242; *Society for Savings* v. *Coite,* 6 Wall. 594. As a franchise or excise tax it is not subject to the restrictions as to uniformity imposed on a property tax. The fact that a filing fee or other charge is exacted of a corporation before it can file its articles of incorporation or secure its franchise does not by implication exempt the corporation from further taxation and the imposition of another charge or fee does not impair the obligation of contract. *New Orleans City and Lake Ry. Co.* v. *New Orleans,* 143 U. S. 192; *Erie Ry. Co.* v. *Pennsylvania,* 21 Wall. 492. Every presumption is against the surrender of the taxing power. *Washington University* v. *Rowse,* 42 Mo. 308; *Reed* v. *Beall,* 42 Miss. 472. A State has power to discriminate in favor of domestic corporations. *Paul* v. *Virginia,* 8 Wall. 168; *Liverpool Ins. Co.* v. *Massachusetts,* 10 Wall. 566; *Western Union Tel. Co.* v. *Mayer,* 28 Ohio St. 521.

WILLS—CONSTRUCTION—"BOOKS" DOES NOT INCLUDE BANK DEPOSITS EVIDENCED BY A BANKBOOK.—Testator bequeathed to A "all my books and papers," and A claimed under this bequest a bank deposit evidenced by a bankbook. *Held,* that the deposit was not included. *In re Jeffreys' Estate—Abbott* v. *Kerrigan et al.* (1905), — Cal. —, 82 Pac. Rep. 549.

The peculiar claim of the plaintiff has been made in only a few cases in the United States and has been uniformly rejected by the courts. *Jackson's Ex'r.* v. *Piscataqua Savings Bank et al.* (1900), 70 N. H. 283, 47 Atl. Rep. 613; *Mathes* v. *Smart* (1872), 51 N. H. 438; *Webster* v. *Wiers* (1884), 51 Conn. 569. In *Perkins* v. *Mathes* (1870), 49 N. H. 107, a case arising out of the same will discussed in *Mathes* v. *Smart,* supra, it was held that a bequest of "all my books and papers of every description" carried title to two promissory notes, the other books and papers being of but little pecuniary value, and the presumption being that the testator intended some benefit to the legatee. The plaintiff in the principal case relied on *Perkins* v. *Mathes,* but the court distinguished it on the ground that in the principal case the other books were of some substantial value.